HON'BLE SRI JUSTICE D.S.R.VARMA
AND
HON'BLE SRI JUSTICE P.SWAROOP REDDY

TAKEN UP WRIT PETITION NO.23831 OF 2006

Between:

M. Gopi Krishna, R/o H.No. 3049, Phase-II New M. I.G, R.C. Puram, BHEL, Hyderabad.

...

Petitioner

AND

1.The Managing Director, A.P. Transco, Hyderabad and others.

....Respondents

–

–

–

–

HON'BLE SRI JUSTICE D.S.R.VARMA

AND

HON'BLE SRI JUSTICE P.SWAROOP REDDY

–

TAKEN UP WRIT PETITION No.23831 OF 2005

ORAL ORDER: **(per the Hon'ble Sri Justice D.S.R.VARMA)**

This writ petition is taken up on the basis of a letter, dated 31-10-2005, addressed by one Sri M. Gopikrishna, to this Court, alleging that the cable system implemented by the cable operators has been causing lot of inconvenience jeopardizing the public safety and depleting the strength of public poles. It is further alleged that the cables are being connected directly to the electric poles, which is unauthorized, and such kind of activity is contrary to the public safety and accordingly, requested this Court to interfere and issue appropriate Writ by directing the concerned authorities of A.P. Transco/DISCOMS and Municipal Corporation of Hyderabad to take necessary steps for removal of such cables unauthorisedly laid by the cable and internet operators on the electric poles and to make provisions of single optic cable fiber facilitating the permitted cable operators to use the same as a medium to carry on with their transmission operations by giving a period of six months for change over in the interests of justice.

2. Having considered the abovementioned complaint, a Division Bench of this Court, by interim order, dated 09.11.2005, directed the Secretary, Energy Department of the Government of Andhra Pradesh, to constitute a 'Committee' comprising the representatives of A.P. Transco, A.P. Central Power Distribution for Municipal Corporation of Hyderabad, Hyderabad Urban Development Authority (HUDA), Police Department and the Collector, Hyderabad, along with the association of Cable and Internet Operators to suggest the ways and means and the remedial measures concerning the installation of Cable Wires within a period of four weeks from the

date of said order.

3. Further, the said Division Bench of this Court had granted an interim order, dated 23.12.2005, initially, to the effect that there shall be interim direction to the respondents to evolve a mechanism to avoid the present system and to take necessary steps to get the underground cable wiring system as laid by the cable operators as per the suggestions of the 'Committee', as expeditiously as possible.

4. Consequent upon the said direction, the Energy (Power.II) Department issued G.O.Rt.No.302, dated 22.11.2005, constituting a Committee with members of various departments as directed by this Court. The said Committee, after conducting a detailed enquiry, prepared a report making certain recommendations, a copy of which has been supplied to this Court and also the same has been placed before the Government also. Pursuant to the said recommendations of the Committee, Energy (Power-II) Department issued G.O.Rt.No.111, dated 27.04.2006, and, for ready reference, the said recommendations made by the Committee are extracted hereunder, which are thus: --

> **"1. Immediate rectification of the existing cabling system: Task force consisting of personnel from DISCOM, Cable Operators and MCH to realign/re-erect and improve the cable TV & Internet wiring system to bring in order and safe working of electricity system within the next 6 months for Hyderabad and other towns of A.P.**
>
> **2. <u>Only underground cabling on main roads and key crossings</u>: On the main roads and key crossings, the cable wires need to remain under grounded. Norms for underground wiring needs to be provided by appropriate civic authorities (MCH/HUDA) and these norms may be similar to the ones provided to telecom companies.**
>
> **3. <u>Usage of sub-roads and interior roads</u>: on the sub-roads and other interior roads, the cable wires may be put on existing poles of the utilities/telecom companies and an appropriate amount as decided by the utility needs to be paid for usage of the infrastructure.**

4 . Fiber optic cable of power utility/joint venture companies: Use of fiber optic cable of power utility or its joint venture by all the users by payment of user charges.

5 . Technical norms and standards: Technical norms (Regulations/Rules and standards) need to be finalized (similar to Tamilnadu) within the next three months, which need to be followed by all concerned. These "technical standards document" will become the guidebook for all future cabling activities in A.P.

6 . Constitute a nodal agency by Government of A.P.: Government of A.P to nominate a department as nodal department to coordinate and provide the required guidelines/clearances for all operators.

7. Model agreement between nodal agency and applicant: Model agreement between such public utility in the Government and applicant needs to be developed similar to Karnataka. This agreement will have details of commercial and technical standards to be binding on all the agencies concerned. Nodal Government department may develop model agreement.

8. Licensing and regulatory framework:

- **In long-term it is necessary to introduce a system of licensing and strong regulatory framework in the sector for Multi-system operators and last mile cable TV operators.**
- **One or two agencies may be selected to provide Optic Fiber Broadband network in the City.**
- **From these optic fiber cable networks, the MSOs can take connections to cable TV operators. This will avoid MSOs and cable TV operators to lay their own cable meshwork all over the city.**
- **Competitive bids have to be called for selecting MSOs (for specific areas/zones) in the first phase and for last mile cable TV Operators in the subsequent phase. This will help in reducing the number of cable operators in each area and provide security of investments and potential returns to the Licensees.**
- **Only Licensee should be given the right way over the infrastructure of electricity distribution system and telecom operation (subject to payment of fees). The Government may also provide the requisite law and order support**

wherever licensee faces such issues on the ground.

9. <u>Convergence</u>: Increasingly, Broadband Internet, Telecommunications and Cable TV are converging to be offered as a single integrated solution as all these modes of communication involve two-way communication of audio/video/data signals. This option may have to be studied as a long term solution to avoid/minimize many issues being encountered today."

5. Further, it is stated in the said G.O.Rt.No.111, dated 27.04.2006, that the Government taking into consideration the said recommendations, nominated the AP TRANSCO as Nodal Agency for implementation of the recommendations of the Committee.

6. Hence, it is obvious from the above that the Government is resolute to implement the recommendations made by the Committee.

7. However, the Chairperson and the Managing Director of A.P TRASCO was directed by the Government to come up with necessary proposals after discussions/recommendations with different departments. This again is obviously only to carryout the recommendations of the Committee with due coordination with various departments.

8. In view of the recommendations made by the Committee, as directed by this Court, and also in view of the clear intention of the Government to implement the said recommendations in letter and spirit, as per the G.O.Rt.No.111, dated 27.04.2006, we feel it expedient to dispose of the present Writ Petition with a direction to the respondents to take all such necessary steps to implement the recommendations of the Committee scrupulously, as indicated by the Government, with utmost expedition. It is further directed that the direction No.4, issued by the Government in G.O.Rt.No.111, dated 27.04.2006, shall be strictly complied with, and accordingly the A.P. TRANSCO shall ensure finalisation of the joint venture forthwith and the entire exercise shall be completed within a period of six months from the date of receipt of a copy of this order.

9. Accordingly, the Writ Petition is disposed of. No order as to costs.

_____
D.S.R.VARMA, J

_____
P. SWAROOP REDDY, J

Dated: 27.07.2006
KA

HON'BLE SRI JUSTICE D.S.R.VARMA
AND
HON'BLE SRI JUSTICE P.SWAROOP REDDY

TAKEN UP WRIT PETITION NO.23831 OF 2006

(Order of the Division Bench
delivered by
the Hon'ble Sri Justice D.S.R.Varma)

27TH JULY 2006